

**CITY OF TAKOMA PARK, MARYLAND
MINUTES
(ADOPTED 3/14/05)**

**PRESENTATION, REGULAR MEETING & WORKSESSION
OF THE CITY COUNCIL**

Monday, February 28, 2005

EXECUTIVE FUNCTION SESSION

The Council met in Executive Function Session at 6:30 p.m. in the Municipal Building Administration Office to continue the City Manager's evaluation. **OFFICIALS PRESENT:** Porter, Austin-Lane, Seamens, Williams. (Executive Function Sessions are closed and not subject to the Open Meetings Act.)

OFFICIALS PRESENT:

Mayor Porter	City Manager Matthews
Councilmember Austin-Lane	Deputy Clerk Carpenter
Councilmember Barry	Community and Government Liaison Ludlow
Councilmember Mizeur	HCD Director Daines
Councilmember Seamens	Senior Planner Inerfeld
Councilmember Williams	City Arborist Linkletter

OFFICIALS ABSENT:

Councilmember Elrich

COUNCIL COMMENTS

Ms. Porter announced an upcoming hearing on a bill in Annapolis, which would prohibit local authorities from not allowing candidates to participate in their parades. She indicated that staff would be preparing testimony against the legislation and requested Councilmembers to let her know if they have any comments on the issue.

Mr. Seamens thanked Chief Creamer and Sgt. Gilbert for their work in getting the shoes off the telephone lines on Maple Avenue. He passed along thanks from Nellie Moxley for the City's support in winning the Planning Board decision to deny the extension of the preliminary subdivision for the East Hampshire Development. Mr. Seamens commented positively on the computer equipment being demonstrated in the Library. He noted the Community Band's upcoming 30th anniversary and requested the Mayor to schedule a resolution recognizing the organization.

Mr. Williams commented on the successful outcome of the Planning Board hearing on the East

Hampshire Development. He thanked staff, Council, and the Pinecrest community for their efforts. Mr. Williams requested that the City Manager provide an update on the status of the off-leash dog park areas.

Ms. Austin-Lane noted the opening of a new business in Takoma DC, a pet accessory and nutrition store, "The Big Bad Wolf." Also in Takoma DC, the District of Columbia has begun a process whereby they would propose and approve an overlay zone for the area around the Metro. Takoma Park should be playing a much larger role in that because of the impact on us. We need to look at this closely and quickly. Comments would need to go in within the next few weeks.

Ms. Porter thanked Assistant City Attorney Ken Sigman for his excellent work in doing the legal work for the case that we won before the Planning Board on the East Hampshire Development issue.

ADOPTION OF MINUTES - May 17, 2004; May 24, 2004; January 18, 2005; January 24, 2005

Ms. Porter pulled from consideration the minutes of May 17, 2004 because the copy circulated had pages missing. She noted for Council that the drafts of May 24, 2004 and January 18, 2005 had been further revised to provide additional information about the closed sessions.

Motion by Williams; second by Mizeur. The minutes were adopted (VOTING FOR: Porter, Austin-Lane, Mizeur, Seamens, Williams; ABSENT: Barry, Elrich).

Ms. Austin-Lane noted that her approval of the minutes is contingent on the typographical errors being corrected by staff..

PUBLIC COMMENTS

Sabrina Baron, President of Historic Takoma, thanked Mayor Porter, Councilmember Williams and staff for their work at the storage warehouse at Eastern and New Hampshire. She noted a proposed change in the procedure of planning board hearings and requested that City staff submit comments. Ms. Baron expressed concerns about the proposed subdivision at 501 Philadelphia Avenue. The property is next to the Historic District, which is feeling pressure from lots of angles. Additionally, the stand of mature trees should also be considered. It is important to look at the larger picture when considering the subdivision of the property.

George Askew, 501 Philadelphia Avenue, said he wants to make it clear that he want to preserve the natural beauty of the property. He came here five years ago and decided to stay. It is difficult to maintain children and a dog safety with the house on Philadelphia Avenue. I would work very carefully and closely with those who are interested.

Catherine Tunis, Chair of the Committee on the Environment, said the committee was asked to

take a look at the subdivision by citizens who were concerned about the trees. We think this is precedent setting. We took a look at the concept of whether we want to subdivide and establish new lots in Takoma Park. The vast majority who had worked on the Master Plan wanted lower density. As property values rise, there will be more pressure to subdivide and build more in-fill homes. There is a lot of research being done on these issues. It is more than just an environmental issue; it is also a community character issue. If there is a financial windfall to the property owner in these cases, we might see if we can get mitigation. Ms. Tunis submitted a written statement.

Buddy Daniels, spoke about the Public Safety Seminar scheduled for March 19. It is open to the public. He will provide more information to staff so it can be publicized.

George Askew commented that he was disconcerted to hear about the idea that he is seeking a financial windfall. That is not our intention. Our goal is to be here for a long time, dependent on our ability to locate our house at the back side of the lot.

Mr. Williams made an additional announcement about a Montgomery County survey of bus stops with the goal of improving bus stop safety for pedestrians. He requested staff to find out if Takoma Park bus stops are included in the survey.

PRESENTATION

1. Update on the Community Center Construction Project

Ms. Matthews provided an update on construction progress. The contractors made considerable progress on the Community Learning Center last week. They virtually finished pouring the concrete floor. I've provided a written update of proposed change orders. It will be posted on the web. Some items that had been pending are now voided and closed. There are still a number of proposed change orders; some of them are potentially large. I will provide more information at the March 7 council meeting.

Mr. Williams noted that two proposed change orders are newly submitted (totaling \$51,000).

Ms. Austin-Lane commented that it does appear that we are being well served by our review process on these PCO's. She encouraged the City Manager to use her best judgment about the particulars of carpet, paint, and similar items as the RFP for the Community Plaza Level is being prepared.

REGULAR MEETING

2. Single Reading Ordinance re: Carroll Avenue Sidewalk Art Project

Sara Daines noted that the proposed project has been approved for installation by the Historic Preservation Commission staff.

Ms. Austin-Lane asked for clarification as to whether the brick accent would also be used on the side of the street where the artwork is to be installed. She expressed concern that the public comments were not based on both the accent and the artwork being on the same sidewalk.

Mr. Williams clarified that the brick is used in sections where there are not planting strips.

Ms. Daines explained that in those sections, there would be brick accent, concrete, and the artwork next to the residential property.

Motion by Seamens; second by Williams.

Ms. Austin-Lane requested further information on the fiscal impact.

Ms. Daines replied that long term maintenance costs are not calculated in the fiscal impact.

Ordinance 2005-4, authorizing execution of a contract with Adrianna Baler for the Carroll Avenue Sidewalk Public Art Project was adopted (VOTING FOR: Porter, Austin-Lane, Mizeur, Seamens, Williams; ABSENT: Barry, Elrich).

**Ordinance 2005-4
(Attached)**

3. Resolution re: Citizens Liaison Committee to the Community Center

Mayor Porter commented that this resolution reestablishes the committee, now that the proper notification of vacancies has been placed in the City Newsletter. No additional individuals have applied for appointment.

Appointees: Maurice Belanger, Sheryl Brugh, Stephen Brown, Dallas Burtraw, Mary Carter-Williams, Paul Chrostowski, Scott Davis, Judy Dickinson, Tom Gagliardo, Stephanie Jennings, Andrew Kelemen, Howard Kohn, Peter Kovar, Juanita Kus-Lorentz, Pam Larson, Richard Levine, Erik Lichtenberg, Karen Mendez, Annie Mozer, Lorraine Pearsall, Anne Polansky, Ray Scannell, Alice Sims, Wayne Sherwood, and Carol Stewart.

Motion by Williams; second by Austin-Lane.

Resolution 2005-11, reaffirming appointments to the Citizens Liaison Committee to the

Community Center was adopted (VOTING FOR: Porter, Austin-Lane, Mizeur, Seamens, Williams; ABSENT: Barry, Elrich).

**Resolution 2005-11
(Attached)**

4. Resolution re: List of Nuclear Weapons Contractors

Motion by Williams; second by Austin-Lane.

Mr. Williams asked how often the list is adopted. He asked for clarification on the apparent negative number that appears on page 5. Mr. Williams noted that there is an entity called Rocky Gap Lodge, Inc. on the list. He asked that staff find out if this refers to the Rocky Gap Lodge in Cumberland. Ms. Porter responded that the list is adopted every so often.

Mr. Seamens requested that staff provide information on past exceptions or waivers to the list. He asked if it had been reviewed in light of the Community Center project.

Mr. Williams noted that compliance with the Nuclear Free Zone Act is required from the contractor, not the suppliers to the contractor.

Andrew Kelemen, 18 Philadelphia Avenue, asked if there has been any discussion of how far down the list you go, in terms of companies who buy companies.

Ms. Porter replied that we have reached a workable level as to what we've been accustomed to and what we can work with.

Ms. Mizeur asked if we have we tried to calculate the cost in terms of staff time that it takes to be in compliance with this Act?

Ms. Matthews said she would provide further information.

Resolution 2004-12, adopting the Fiscal Year 2002 Nuclear Free America, Inc. Listing of Parent Companies of Nuclear Weapons Systems Contractors was adopted (VOTING FOR: Porter, Austin-Lane, Barry, Mizeur, Seamens, Williams; ABSENT: Elrich).

**Resolution 2004-12
(Attached)**

5. 1st Reading Ordinance re: Charron Construction Consulting, Inc.

Ms. Matthews explained the need for the ordinance. We have been working with Charron on the Community Center construction project since July 2003. We are using them to try to resolve the change orders, and also to resolve some permitting issues. This contract is for a not to exceed

amount of \$80,000.

Mr. Williams asked for clarification on the amount spent on Charron contracts to date.

Mr. Seamens commented on the improvement in management he has seen since the new City Manager arrived.

Ms. Matthews credited Charron for their work. They have been instrumental, particularly with some of the more recent discussions. As we continue to move forward, I would hope the Council would allow us to use their services. I recognize the concern about spending more money than we need to.

Ms. Porter commented on the example of the settlement agreement and the savings realized. She said she appreciates that the City Manager's negotiations with the consultants to use a lower-priced associate in the future.

Mr. Williams asked if we can expect increased monitoring on the next phase? Ms. Matthews responded that we would continue the consultant's services as we finish the current phase, and during the community plaza level construction. We factored in the change order issues which we are in the process of trying to resolve. We are now down to some of the high cost items.

Motion by Williams; second by Seamens.

Ordinance 2005-5, authorization for contract award for construction consultant, was accepted at first reading (VOTING FOR: Porter, Austin-Lane, Barry, Mizeur, Seamens, Williams; ABSENT: Elrich).

**Ordinance 2005-5
(Attached)**

6. Resolution re: Emergency Equipment Acquisition

Ms. Matthews explained that she had used her emergency procurement authority to authorize the replacement of a secondary sewage pump for the Municipal Building basement. The policy requires that she notify Council and request that they ratify the decision by resolution.

Motion by Seamens; second by Austin-Lane.

Resolution 2005-13, approving the emergency procurement of a sewage pump, was adopted (VOTING FOR: Porter, Austin-Lane, Barry, Mizeur, Seamens, Williams; ABSENT: Elrich).

**Resolution 2005-13
(Attached)**

WORKSESSION

7. Proposed Subdivision at 501 Philadelphia Avenue

Staff members Rob Inerfeld, Brett Linkletter, and Suzanne Ludlow were present for the discussion, along with Mr. George Askew, the property owner. Mr. Inerfeld described the proposed subdivision and explained that the Planning Board would consider whether the subdivision created a buildable lot, with a shape consistent with existing lots in the area, and which is accessible to road and utility service. The proposed subdivision meets these conditions. There are a number of large trees on the site, but it is rare for a subdivision to be denied based on tree issues. Close proximity to a stream valley park or steep slopes might be a reason to deny. Staff recommends support of the subdivision. Council also has the option to take no position or oppose.

Mr. Linkletter listed the trees on the lot. He said his guess is that over half the trees may be lost, and an aggressive tree protection plan would be needed to protect the others.

Ms. Ludlow described two past proposals where the Planning Board denied applicant's requests for subdivisions. In a number of other cases, the Council has not taken a position.

Mr. Askew said his goal is to work as closely with the arborist as possible to preserve as many trees as possible while providing a suitable home for our family.

Council discussed the proposal. Mr. Seamens indicated his concern with balancing the right of the property owner with the fact that the property is next to the historic district and has a large number of trees. He suggested the option of recommending approval while asking that the property owner work out an agreement with Historic Takoma.

Ms. Porter suggested going forward with no position. She noted that you can approve with conditions, but you cannot disapprove with conditions.

Ms. Austin-Lane said she was comfortable with the Council taking no position and letting Park and Planning decide.

Ms. Mizeur asked about tree replacement. Mr. Linkletter responded that the City requires tree replacement or payment into a tree replacement fund.

After further discussion, there was Council consensus to take no position on the request.

BREAK

Council recessed for a scheduled break at 9:03 p.m. and reconvened at 9:14 p.m.

8. Status Report from the Residents Committee on Tax and Service Duplication Issues.

Committee Chairs Bruce Moyer and Dan Robinson gave a slide presentation on the status of the committee's progress.

Mr. Seamens commented that he hopes the committee will come up with its own recommendations, without the influence of staff. We need a fresh perspective.

Mr. Williams asked, can you share any comments about the extent to which various groups have focused on any area where the county has not adequately explained themselves. They reimburse on the tax aspect, but exclude the capital outlay. I've asked, but how do you pay for your capital budget? Why is this excluded?

Mr. Robinson responded that Montgomery County feels quite liberal in that they are opting to provide some rebate. A piece of legislation proposed at the state level would suggest that the counties hear requests from cities on the income tax refunded. I'd like to say, give it all back to us and prove you need it. I hope we can develop several models.

Mr. Williams commented that since municipalities are a small percentage of Maryland's population, we don't have a lot of clout. When you consider that \$6 million is the total rebates to the cities from Montgomery County, it would cost a whole lot more than \$6 million to replace the services.

Ms. Porter noted, if you exclude Baltimore, only 15% of Maryland's residents live in incorporated municipalities; 100% live in counties.

Mr. Barry asked, when we confront the county, what's to prevent them from looking at the report, and saying "so what?" What can you provide us in terms of data and information on what other jurisdictions are doing in the state and in other states?

Mr. Moyer responded, we would hope that we would be able to address the constraints in state law. In state law currently the county holds more trump cards.

Ms. Mizeur suggested that on Police services, it would be helpful to include a discussion of issues, such as the services provided to other jurisdictions in which we are not included. The county has a state funded program that covers all jurisdictions except Takoma Park (county auto theft unit). Outside of the rebate, we should have these benefits. In Public Works, how much would the county charge if the City were to contract it out to them. I would like have a sense of in what areas of service do we have a right to say we're not going to do it anymore, and now you have to do it. What does the law allow? What is the list of those services? How much would that cost the county if we did that?

Ms. Mizeur continued, on trash, I read that county residents can have the bulk items picked up for free, but we have a payment in our system. Can you address that? On the Library, thinking about the cost benefit analysis, will you include a question in the survey to try to gain input on the Library; assess how much the other libraries are being used and appreciated by our residents?

Ms. Austin-Lane asked if the committee would be examining the materials provided last year, as part of the budget discussion, concerning service reductions. With licensing of rental housing, we didn't get information on how much it was costing us. I believe we asked for an absolute amount to carry out that function. I believe we approved an increase in the licensing fee.

Ms. Austin-Lane continued, concerning rights-of-way, there is the issue of snow and leaf removal. Are you also looking at road repair? I remember that right-of-way payment was based on miles. I remember that if the county does not own the road, they are not going to repair it. Then we are left with having the county pick up trash and recycling, instead of taking over road repair. I agree that with the other county residents benefitting from county services, we should benefit as well. I wonder about this in terms of the Library and Housing Department. With the Library, it is complicated but it would be good if we could have some clarity on what services the county could provide.

Keith Berner responded to the question about the library services, indicating that it was his understanding that the county would not keep our library open.

Ms. Austin-Lane asked about participating in inter-library loan and accessing other county resources.

Mr. Berner said, our Library participates in a state library loan system. We are not suffering any service difficulty based on inter-library loan by not being in that system. We'll look at the fees charged by our library for this service.

Mr. Robinson said, we were privy to some numbers (from Suzanne Ludlow) as to what services the City thought it could cede to the county. Just because we own the roads, doesn't mean we're not sending money to the county to maintain them. We're maintaining a library system in the county, why can't we get county library services in our own library.

Ms. Austin-Lane said she would like the committee to look at the differences in service levels between the county and the City. Other county residents may be receiving a service increment that we do not receive.

Ms. Porter commented on the right-of-way rebate. I assume it is so low because it is based only on the county right-of-way work being done with tax dollars, not capital funds. If you could get your hands on a number for the proportion of county road maintenance done with capital funds, or borrowed sources, rather than simply tax dollars, that would be helpful information.

Andy Kelemen, a member of the committee, commented that the auto theft squad (mentioned by Ms. Mizeur), comes under "special services" of the county, which also includes drug enforcement and serious crimes. We're looking at one option where Takoma Park would maintain station detective service but have the county take over the special services. Mr. Kelemen noted that the committee is limited by the data available. We are looking at someone else's primary sources.

9. Bids for Gateway Wayfinding Sign System.

Mr. Inerfeld, Ms. Daines, and Mr. Healy (of Gallagher and Associates) were present at the table for the discussion. Mr. Inerfeld commented on the bids received. The low bid was from AGI. He noted that their bid was below staff estimates.

Ms. Mizeur asked if the bids were based on adding a logo or color. Mr. Healy responded that the production specs are set, as is the installation procedure.

Ms. Porter asked if the low bid is from a responsible company? Mr. Healy responded that he has worked with them on a number of projects.

Mr. Inerfeld provided information for Council on the staff proposal for how to spend the remaining money. He noted that Gallagher & Associates has assured us there will be no additional cost for design.

Mr. Williams questioned the large contingency. Mr. Inerfeld said that it would cover unexpected costs with siting the signs, for example. We could buy additional signs any leftover contingency.

Ms. Porter suggested adding another pedestrian kiosk. Mr. Seamens agreed. Mr. Healy noted that Council would need to make that decision before the contract is signed.

Mr. Inerfeld noted that the Old Town Business Association will be applying for a grant for a pedestrian kiosk, as part of the Neighborhood Business Works Proposal.

Staff provided Council information on a minimal plan for sign location.

Mr. Seamens asked if it would be possible to place a pedestrian kiosk in the Crossroads area. He asked if staff has spoken with the CDA about this. There is a lot of pedestrian and bus traffic there. The businesses may be interested in the benefits of having a jointly funded kiosk.

Ms. Daines said she would speak with Erwin Mack of the CDA about this idea.

Staff was directed to seek additional public comments in the next week.

Mr. Seamens questioned the amount of money in the budget for the mock up of the directional signs.

Mr. Healy explained that the color mockup will be needed to get community consensus on the signs. Mr. Inerfeld added that the mockup would be used to prepare for applying for the Historic Preservation Commission permits.

Ms. Daines explained which decisions Council would need to make when they vote on the ordinance to approve a contract at next week's meeting. These include the type of signs and the

number of signs.

There was discussion about how much time Council would have before making a final decision on location, color, logo and sign text.

ADJOURNMENT

The Council adjourned at 10:49 p.m.